

IN THE UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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In re : Chapter 11
DELPHI CORPORATION, et al., : Case No. 05-44481 (RDD)
Debtors. : (Jointly Administered)
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AFFIDAVIT OF SERVICE

I, Amber M. Cervený, being duly sworn according to law, depose and say that I am employed by Kurtzman Carson Consultants, LLC, the Court appointed claims and noticing agent for the Debtors in the above-captioned cases.

On December 29, 2005, I caused to be served the documents listed below (i) upon the parties listed on Exhibit A hereto via overnight delivery, (ii) upon the parties listed on Exhibit B hereto via electronic notification, and (iii) upon the parties listed on Exhibit C hereto via postage pre-paid U.S. mail:

- 1) Debtor's Objection to Motion of Entergy Mississippi, Inc. for Relief From the Automatic Stay to Permit Recoupment or, in the Alternative, Setoff and Affirmation of Donald S. Poole in Support of Debtors' Objection to Motion for Order of Relief From Automatic Stay to Permit Recoupment or, in the Alternative, Setoff (Docket No. 1662) [a copy of which is attached hereto as Exhibit D]
- 2) Debtors' Objection to Motion by Pepco Energy Services, Inc. for Relief From Automatic Stay to Provide Notice of Default and Terminate Sales Agreement with the Debtors, or in the Alternative, for an Order Compelling the Debtors to Assume or Reject Sales Agreement and Affirmation of Donald S. Poole in Support of Debtors' Objection to Motion for Order of Relief From Automatic Stay to Provide Notice of Default and Terminate Sales Agreement Between Pepco Energy Services, Inc. and Debtors, or in the Alternative, for Order Compelling Debtors to Assume or Reject Sales Agreement (Docket No. 1660) [a copy of which is attached hereto as Exhibit E]

Dated: January 3, 2006

/s/ Amber M. Cervený
Amber M. Cervený

Sworn to and subscribed before
me on January 3, 2006

/s/ Evan J. Gershbein
Notary Public
My Commission Expires: 1/19/07

EXHIBIT A

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Internal Revenue Service	Attn: Insolvency Department	477 Michigan Ave	Mail Stop 15	Detroit	MI	48226	313-628-3648	313-628-3602		Michigan IRS
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EXHIBIT B

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Sonnenschein Nath & Rosenthal LLP	D. Farrington Yates	1221 Avenue of the Americas	24th Floor	New York	NY	10020	212-768-6700	212-768-6800		Counsel for Molex, Inc. and INA USA, Inc.
Sonnenschein Nath & Rosenthal LLP	Jo Christine Reed	1221 Avenue of the Americas	24th Floor	New York	NY	10020	212-768-6700	212-768-6800		Counsel for Molex, Inc. and INA USA, Inc.
Sonnenschein Nath & Rosenthal LLP	Robert E. Richards	8000 Sears Tower	233 South Wacker Drive	Chicago	IL	60606	312-876-8000	312-876-7934		Counsel for Molex, Inc. and INA USA, Inc.
The Timken Corporation BIC - 08	Robert Morris	1835 Dueber Ave. SW	PO Box 6927	Canton	OH	44706				Representative for Timken Corporation
Warner Norcross & Judd LLP	Stephen B. Grow	900 Fifth Third Center	111 Lyon Street, N.W.	Grand Rapids	MI	49503	616-752-2158			Counsel for Behr Industries Corp.
White & Case LLP	John K. Cunningham	1155 Avenue of the Americas		New York	NY	10036-2787	212-819-8200			Counsel for Appaloosa Management, LP
Kutchin & Rufo, P.C.	Kerry R. Northrup	155 Federal Street	17th Floor	Boston	MA	02110-1727	617-542-3000	617-542-3001		Counsel for Parlex Corporation
Ettelman & Hochheiser, P.C.	Gary Ettelman	c/o Premium Cadillac	77 Main Street	New Rochelle	NY	10801	516-227-6300	516-227-6307	knorthrup@kuttelman.com	Counsel for Jon Ballin
Arnall Golden Gregory LLP	Heath J. Vicente	171 17th Street NW	Suite 2100	Atlanta	GA	30363-1031	404-873-8682	404-873-8683	heath.vicente@aggregory.com	Counsel to Daishinku (America) Corp. d/b/a KDS America ("Daishinku"), SBC Telecommunications, Inc. (SBC)
Bernstein Litowitz Berger & Grossman	Eileen Mc Nerney	1285 Avenue of the Americas		New York	NY	10019	212-554-1485	212-554-1444	emcnerney@blbg.com	Counsel for Teachers Retirement System of Oklahoma; Public Employees' Retirement System of Mississippi; Raiffeisen Kapitalanlage-Gesellschaft m.b.H and Stichting Pensioenfonds ABP
Lord, Bissel & Brook LLP	Kevin J. Walsh Rocco N. Covino	885 Third Avenue	26th Floor	New York	NY	10022-4802	212-947-8304 212-947-8340	212-947-1202	kwals@lordbissel.com rcovino@lordbissel.com	Counsel to Sedgwick Claims Management Services, Inc. and Methode Electronics, Inc.
Lord, Bissel & Brook	Timothy W. Brink	115 South LaSalle Street		Chicago	IL	60603	312-443-1832	312-443-896-6432	tbrink@lordbissel.com	Counsel for Sedgwick Claims Management Services, Inc.
Lord, Bissel & Brook	Timothy S. McFadden	115 South LaSalle Street		Chicago	IL	60603	312-443-0370	312-896-6394	tmcfadden@lordbissel.com	Counsel for Methode Electronics, Inc.

COMPANY	CONTACT	ADDRESS1	ADDRESS2	CITY	STATE	ZIP	PHONE	FAX	EMAIL	PARTY / FUNCTION
Honigman, Miller, Schwartz and Cohn, LLP	E. Todd Sable	2290 First National Building	660 Woodward Avenue	Detroit	MI	48226	313-465-7548	313-465-7549	tsable@honigman.com	Counsel for Valeo Climate Control Corp.; Valeo Electrical Systems, Inc. - Motors and Actuators Division; Valeo Electrical Systems, Inc. - Wipers Division; Valeo Switches & Detection System, Inc.
Lyden, Liebenthal & Chappell, Ltd.	Erik G. Chappell	5565 Airport Highway	Suite 101	Toledo	OH	43615	419-867-8900	419-867-8909	egc@leydenlieden.com	Counsel for Metro Fibres, Inc.
Schafer and Weiner PLLC	Howard Borin	40950 Woodward Ave.	Suite 100	Bloomfield Hills	MI	48304	248-540-3340		hborin@schafer.com	Counsel for Dott Industries, Inc.
Schafer and Weiner PLLC	Max Newman	40950 Woodward Ave.	Suite 100	Bloomfield Hills	MI	48304	248-540-3340		mnewman@schafer.com	Counsel for Dott Industries, Inc.
Schafer and Weiner PLLC	Ryan Heilman	40950 Woodward Ave.	Suite 100	Bloomfield Hills	MI	48304	248-540-3340		rheilman@schafer.com	Counsel for Dott Industries, Inc.
Schafer and Weiner PLLC	Daniel Weiner	40950 Woodward Ave.	Suite 100	Bloomfield Hills	MI	48304	248-540-3340		dweiner@schafer.com	Counsel for Dott Industries, Inc.
Akebono Corporation (North America)	Alan Swiech	34385 Twelve Mile Road		Farmington Hills	MI	48331	248-489-7406	866-609-0888	aswiech@akebono.com	Vice President of Administration for Akebono Corporation
Miami-Dade County, FL	April Burch	140 West Flagler Street	Suite 1403	Miami	FL	33130	305-375-5314	305-375-1142	aburch@miamidade.gov	Paralegal Collection Specialist for Miami-Dade County
Pierce Atwood LLP	Keith J. Cunningham	One Monument Square		Portland	ME	04101	207-791-1100	207-791-1350	kcunningham@pierceatwood.com	Counsel for FCI Canada, Inc.; FCI Electronics Mexico, S. de R.L. de C.V.; FCI USA, Inc.; FCI Brasil, Ltda; FCI Automotive Deutschland GmbH; FCI Italia S. p.A.

EXHIBIT D

TOGUT, SEGAL & SEGAL LLP
Co-Counsel for Delphi Corporation, *et al.*,
Debtors and Debtors in Possession
One Penn Plaza, Suite 3335
New York, New York 10119
(212) 594-5000
Albert Togut (AT-9759)
Neil Berger (NB-3599)
Sean McGrath (SM-4676)

Delphi Legal Information Hotline:
Toll Free: (800) 718-5305
International: (248) 813-2698

Delphi Legal Information Website:
<http://www.delphidocket.com>

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

HEARING DATE: 1/05/06
AT: 10:00 A.M.

-----X	
In re:	:
	:
DELPHI CORPORATION, <i>et al.</i> ,	:
	:
Debtors.	:
	:
-----X	

Chapter 11
Case No. 05-44481 [RDD]
Jointly Administered

**DEBTOR'S OBJECTION TO MOTION OF ENTERGY
MISSISSIPPI, INC. FOR RELIEF FROM THE AUTOMATIC STAY
TO PERMIT RECOUPMENT OR, IN THE ALTERNATIVE, SETOFF**

**TO THE HONORABLE ROBERT D. DRAIN,
UNITED STATES BANKRUPTCY JUDGE:**

Delphi Corporation ("Delphi") and Delphi Automotive Systems, LLC, debtors and debtors in possession in the above-captioned cases (collectively, the "Debtors"), by their undersigned counsel, as and for their objection to the motion dated November 11, 2005 (the "Motion") of Entergy Mississippi, Inc. ("Entergy"), for an Order granting relief from the automatic stay to recoup or, in the alternative, setoff its alleged prepetition claim against property of the Debtor's estate, respectfully state:

PRELIMINARY STATEMENT

1. Within 90 days prior to the commencement of Debtors' bankruptcy cases, Entergy demanded and extracted a \$600,000 deposit (the "Deposit") to protect itself at the expense of the Debtors' other creditors. Entergy extracted this payment at a time when Debtors' financial distress was widely known and when the Debtors were in an inferior bargaining position.

2. Entergy now seeks the Court's permission to "setoff" its prepetition claim against the Deposit. The claim of setoff fails under Bankruptcy Code section 553(a)(3) because the Deposit was obtained after 90 days before the Filing Date (defined below), while the Debtors were presumed insolvent, and for the purpose of obtaining a right of setoff against the Debtors.

3. Apparently recognizing that its setoff argument fails under the Bankruptcy Code, Entergy also asserts an alternative right of recoupment. However, Entergy is not entitled to recoupment because recoupment may only be asserted as a defense, not an independent cause of action, and no claim has been asserted yet against Entergy for any amounts it may owe to the Debtors.

4. None of these fatal factors are disclosed in the Motion.

5. The Motion also fails to disclose that while Entergy seeks permission to setoff or recoup, Entergy has, without prior notice to or consent from the Court or the Debtors, already impermissibly taken action to deduct its claim from the Deposit that it extracted from the Debtors.

FACTS

A. The Chapter 11 Cases

6. On October 8, 2005 (the "Filing Date"), Delphi and certain affiliates each filed a voluntary petition in this Court for reorganization relief under Chapter 11 of title 11 of the United States Code, 11 U.S.C. §§ 101-1330, as amended (the "Bankruptcy Code").

7. The Debtors continue to operate their businesses and manage their properties as debtors-in-possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. The Court has entered Orders directing the joint administration of the Debtors' chapter 11 cases (Docket Nos. 28 and 404).

8. On October 17, 2005, the United States Trustee for the Southern District of New York appointed an official committee of unsecured creditors in these cases, which is represented by Latham & Watkins. No trustee or examiner has been appointed.

B. The Debtor' Agreements with Entergy

9. Entergy and the Debtors entered into an agreement for Entergy to provide electrical power to certain of Debtors' facilities (the "Agreement"). The Agreement, as originally entered into, did not require the payment of any deposit by the Debtors. Affidavit of Donald S. Poole annexed hereto as Exhibit "1" ¶ 3.

10. Citing the well-publicized deterioration of the Debtors' financial condition, Entergy demanded, and on August 15, 2005, obtained from the Debtors the \$600,000 Deposit. Entergy advised the Debtors that it was seeking this payment to protect it from the financial risk that the Debtors would seek bankruptcy protection and

be unable to meet all of their payment obligations under the Agreement. See Poole Aff. ¶¶ 4-5 and Exhibit A.

C. Entergy's Violation of the Automatic Stay

11. By invoice dated October 3, 2005 ("Invoice #1"), five days before the Filing Date, Entergy billed the Debtors in the amount of \$196,555.17 to Delphi Packard Electric Systems, Account #17243528 ("Delphi Account-1"). By invoice dated October 6, 2005 ("Invoice #2"), Entergy billed the Debtors in the amount of \$1,011,901.86 to Delphi Packard Electric Systems Ubar-1, Account #16464919 ("Delphi Account-2"). Poole Aff. ¶ 6 and Exhibits B and C.

12. According to invoices attached to Entergy's proof of claim in this case, dated November 8, 2005 and assigned number 813 (the "POC"), Entergy received a payment on account of Invoice #2 of \$452,985.65 but received no payment on Invoice#2 in October 2005. A copy of the Proof of Claim is annexed hereto as Exhibit "2".

13. Two days later, on October 8, 2005, the Debtors commenced these cases.

14. According to the POC, on November 1, 2005, after the Filing Date, Entergy sent invoices to Delphi indicating that -- in clear violation of the automatic stay -- Entergy had seized and applied the entire Deposit: (1) invoice #2003190254 ("Invoice #3") to Delphi Account-1, contained a notation of "Deposit Applied" in the amount of \$450,000.00; and (2) invoice #2003190365 (Invoice #4) to Delphi Account-2, contained a notation of "Deposit Applied" in the amount of \$150,000.00.

15. In the POC, dated November 8, 2005, Entergy indicated that it had a total claim of \$963,099.68 that was secured by collateral of \$600,000. It failed,

however, to indicate that it had already seized that “collateral” in violation of the automatic stay.

16. Entergy filed the Motion on November 11, 2005 seeking “recoupment and/or setoff rights.” Entergy failed to inform the Court at that time –or at any time since -- that it had already violated the automatic stay and seized the entire Deposit. Indeed, Entergy characterizes the relief it seeks as entirely prospective. See Motion at p.4, ¶16 (“By this motion, Entergy seeks an order of the Court granting it relief from the automatic stay and any stay imposed by the DIP Financing Order to allow the immediate exercise of recoupment and/or setoff rights to Entergy....”).¹

ARGUMENT

A. Entergy Does Not Have A Setoff Right

Entergy is barred from exercising any purported right to setoff by Bankruptcy Code section 553(a)(3). The Bankruptcy Code permits proper setoffs, but not “a setup for a setoff.” In re Multiponics Inc., 622 F.2d 725, 730 (5th Cir. 1980); In re Bennett Funding Group, Inc., Official Committee of Unsecured Creditors v. Manufacturers and Traders Trust Company, 146 F.3d 136 (2nd Cir. 1998) (“[i]f the debt was incurred for the purpose of achieving setoff rights, it is barred”).

Entergy’s extraction of the Debtor’s funds shortly before bankruptcy -- expressly to ensure that Entergy would have funds to setoff against the Debtor’s payment obligations -- is precisely the sort of preferential “setup for a setoff” that section 553(a)(3) was intended to expose and prevent.

¹ Entergy also demanded and obtained a post-petition deposit pursuant to Bankruptcy Code section 366. That deposit was paid to Entergy during the first week of December 2005, after Entergy had already setoff against the prepetition deposit. When it demanded the post-petition deposit, Entergy failed to advise the Debtors that it had already setoff against the prepetition deposit.

Section 553(a) of the Bankruptcy Code generally preserves whatever rights of setoff a party has under non-bankruptcy law and shields an otherwise valid setoff from avoidance as a preference under section 547. See 11 U.S.C. § 553(a). This protection is not unlimited, however, and an otherwise valid setoff is subject to avoidance under section 553(a)(3) whenever:

(3) the debt owed to the debtor by such creditor was incurred by such creditor - (A) after 90 days before the date of the filing of the petition; (B) while the debtor was insolvent; and (C) for the purpose of obtaining a right of setoff.

11 U.S.C. § 553(a)(3). All three of these elements for the application of section 553(a)(3) are apparent here:

First, it is beyond dispute that Entergy obtained the Deposit and incurred its corresponding debt to the Debtors, against which it now seeks to setoff, during the 90-day period preceding the Filing Date. See Poole Affidavit §5. Section 553(a)(3)(A) is, therefore, satisfied.

Second, Entergy demanded the Deposit precisely because of the Debtors' widely-known financial distress. Consequently, Entergy cannot credibly dispute that the Debtors were insolvent at the time they delivered the Deposit to Entergy. Moreover, pursuant to Bankruptcy Code section 553(c), "the debtor is presumed to have been insolvent during the 90 days immediately preceding the date of the petition." Accordingly, the requirement of section 553(a)(3)(B) has been satisfied.

Third, the undisputed facts demonstrate that Entergy incurred its obligation to the Debtors for the purpose of obtaining a right of setoff.

See Poole Aff. ¶4. Thus, section 553(a)(3)(C) has been satisfied and Entergy may not setoff.

B. Entergy's Reliance On The Recoupment Doctrine Is Misplaced

18. The common law doctrine of recoupment is a defense to an action asserted by a "plaintiff-debtor". In re McMahon, 129 F.3d 93, 96 (2d Cir. 1997) (finding that under New York law recoupment is a defense to an action). Recoupment may only be asserted in the bankruptcy context by a creditor as a defense or a cross claim if the debtor first asserts claims for the return of funds against the creditor. As the Second Circuit has explained:

Recoupment means a deduction from money claims through a process whereby cross demands arising out of the same transaction are allowed to compensate one another and the balance only to be recovered. Of course, such a process does not allow one transaction to be offset against another, but only permits a transaction which is made the subject of suit by a plaintiff to be examined in all its aspects, and judgment to be rendered that does justice in view of the one transaction as a whole.

In re McMahon, 129 F.3d 93, 96 (quoting National Cash Register Co. v. Joseph, 299 N.Y. 200, 86 N.E.2d 561, 562 (1949) (citations omitted) (emphasis added)).²

19. Allowing Entergy to "recoup" its claim before the Debtors have asserted any claim would be tantamount to permitting Entergy to have a super priority over other creditors. See 5 Collier On Bankruptcy ¶ 553.10, at 553-101 (15th ed. 2002) ("as long as this right of reduction is asserted as a defense and not as an independent claim for relief, it does not constitute a 'claim' nor is there any element of a preference about it."). This result may not be permitted.

² See also, this Court's October 28, 2005 Final Order authorizing, among other things, the Debtors to obtain postpetition financing, which addresses "recoupment defenses". (Docket No. 760, para 18).

20. The Debtors have not yet asserted a claim or cause of action for payment against Entergy. As a result, there is no claim giving rise to any recoupment defense in favor of Entergy. Entergy's Motion is premature and must be denied.

CONCLUSION

Based on the foregoing, Entergy has failed to establish any basis upon which this Court may endorse Entergy's willful and undisclosed violations of the automatic stay, and its attempts to do so must be rejected.

WHEREFORE, the Debtors respectfully request that the Court enter an Order denying the Motion, together with such other and further relief as may be just and proper.

Dated: New York, New York
December 29, 2005

DELPHI CORPORATION, *et al.*
By their attorneys,
TOGUT, SEGAL & SEGAL LLP
By:

/s/ Neil Berger
ALBERT TOGUT (AT-9759)
NEIL BERGER (NB-3599)
Members of the Firm
One Penn Plaza
New York, New York 10119
(212) 594-5000

EXHIBIT 1

TOGUT, SEGAL & SEGAL LLP
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Sean McGrath (SM-4676)

Delphi Legal Information Hotline:
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Delphi Legal Information Website:
http://www.delphidocket.com

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

HEARING DATE: 1/5/06
AT: 10:00 A.M.

In re:

DELPHI CORPORATION, *et al.*,

Debtors.

Chapter 11
Case No. 05-44481 [RDD]
Jointly Administered

**AFFIRMATION OF DONALD S. POOLE IN SUPPORT OF DEBTORS' OBJECTION
TO MOTION FOR ORDER OF RELIEF FROM AUTOMATIC STAY TO PERMIT
RECOUPMENT OR, IN THE ALTERNATIVE, SETOFF**

STATE OF OHIO)
)
COUNTY OF MONTGOMERY)

DONALD S. POOLE solemnly affirms, under the penalty of perjury, as follows:

1. I am the Manager of Utilities Supply of Delphi Corporation (“Delphi”), and am familiar with the operations of both Delphi and Delphi Automotive Systems, LLC, debtors and debtors-in-possession in the above-captioned chapter 11 cases (collectively, the “Debtors”). I am familiar with the Debtors’ operations and their process of obtaining electrical services. I have held this position in Delphi since 1999 and have

worked with electrical utility companies on industrial power delivery for over 35 years. I have a B.A. degree in Electrical Engineering from the University of Akron and am a registered Professional Engineer in the States of Ohio. I have personal knowledge of the facts stated in this Affidavit and I can testify to those facts in court if necessary on behalf of the Debtors.

2. In my present position, I have responsibility for procuring electricity for the Debtors' manufacturing facilities in Brookhaven and Clinton Mississippi (the "Facilities"). My present responsibilities include making sure that invoices for electrical bills are paid in a timely fashion and reconciling any disputes with electricity suppliers concerning payment amounts.

3. For a period of several years, the Facilities's sole supplier of electricity has been Entergy Mississippi, Inc., Inc. ("Entergy"). Entergy supplies the Facilities with electricity pursuant to certain supply agreements dated December 17, 1976 and September 12, 1997 (jointly and including all amendments, the "Agreement"). The Agreement, as originally entered into, did not require the payment of any deposit by the Debtors.

4. Citing the well-publicized deterioration of the Debtors' financial condition, an Entergy representative contacted me in the summer of 2005, seeking a \$600,000.00 deposit from the Debtors. Entergy advised me that it was seeking this payment to protect it from the financial risk that the Debtors would seek bankruptcy protection and be unable to meet all of their payment obligations under the Agreement.

5. On August 15, 2005, the Debtors made the payment of \$600,000.00 to Entergy pursuant to an addendum to the Sales Agreement. A copy of that addendum is annexed hereto as Exhibit "A".

6. By invoice dated October 3, 2005 ("Invoice #1"), five days before the Filing Date, Entergy billed the Debtors in the amount of \$196,555.17 to Delphi Packard Electric Systems, Account #17243528 ("Delphi Account-1"). By invoice dated October 6, 2005 ("Invoice #2"), Entergy billed the Debtors in the amount of \$1,011,901.86 to Delphi Packard Electric Systems Ubar-1, Account #16464919 ("Delphi Account-2"). Invoice #1 is annexed hereto as Exhibit "B". Invoice #2 is annexed hereto as Exhibit "C".

I affirm under the penalty of perjury according to the laws of the United States that the foregoing statements are true and correct.

Executed this 29th day of December, 2005 in Dayton, Ohio.

/s/ Donald S. Poole

DONALD S. POOLE

EXHIBIT A

This Addendum to Electric Service Agreements (this "Addendum") is entered into as of ~~January 1, 2006~~ (the "Effective Date") by and between Delphi Automotive Systems, LLC (together with its affiliates and subsidiaries, "Delphi") and Entergy Mississippi, Inc. ("Company").

A. Company supplies electricity to Delphi pursuant to the following agreements (collectively, the "Supply Contracts"):

- (1) Agreement for Service dated December 17, 1976, as amended and modified; and
- (2) Agreement for Service dated September 12, 1997.

B. As allowed by the Supply Contracts, Section V of Company's Service Policy (the "Service Policy" (on file with the Mississippi Public Service Commission ("MPSC")), and Rule 9 of the Rules and Regulations Governing Public Utility Service (the "Rules and Regulations") promulgated by the MPSC, Company has required that Delphi provide a deposit as a guarantee of payment for utility service provided by Company to Delphi.

C. Delphi and Company have agreed to modify the payment terms of the Supply Contracts and that Delphi will provide Company with a deposit as provided below.

Based upon the foregoing recitals and for good and valuable consideration, the receipt and adequacy of which is acknowledged, Delphi and Company agree as follows:

1. Except as expressly modified herein, all Supply Contracts remain in full force and effect. Nothing in this Addendum shall alter the terms of payment of any amounts that become due and owing to Company before the Effective Date.
2. Within one business day after the Effective Date, Delphi shall deliver to Company the sum of \$600,000.00 (the "Deposit") to be held by Company pursuant to the Rules and Regulations and any applicable orders of the MPSC as a guarantee of payment for utility service provided under the Supply Contracts. The Deposit shall be deemed to have been delivered to Company when it has been received by Company. The Deposit shall be delivered to Company either by check or by wire transfer, at Delphi's option. If by check, the check shall be delivered to the following address:

Entergy Mississippi, Inc.
Attn: Alan H. Katz, L-ENT-26C
639 Loyola Avenue
New Orleans, LA 70113

If by wire, wiring instructions are as follows:

Hibernia National Bank
New Orleans, LA
ABA 065000090
Entergy Services Inc.
Remittance Account
882343421

Addenda Field: Entergy Customer account number 16464919
Delphi shall send email to akatz@entergy.com with wire reference number.

Should the Deposit not be delivered to Company as provided in this section, Company shall fax a notice of nonpayment to the facsimile number in section 3 below. Should the Deposit not be delivered to Company within twenty-four (24) hours after notice of nonpayment is faxed, Company is and shall be authorized to terminate service without further notice, notwithstanding anything to the contrary.

3. On and after September 1, 2005, Company shall fax its monthly invoices (each, an "Invoice") to Delphi to the following facsimile number: (773) 442-0219. Within seven (7) days of its receipt of an Invoice, Delphi shall deliver payment of the amount of such Invoice to Company. A payment shall be deemed to have been delivered to Company when it has been received by Company. Payments shall be delivered to Company either by check or by wire transfer, at Delphi's option. If by check, the check shall be delivered to the following address:

Entergy Mississippi, Inc.
Attn: Remittance Processing, L-ENT-23D
639 Loyola Avenue
New Orleans, LA 70113

If by wire, wiring instructions are as follows:

Hibernia National Bank
New Orleans, LA
ABA 065000090
Entergy Services Inc.
Remittance Account
882343421

Addenda Field: Please reference the appropriate Entergy customer account number.
Delphi shall send email to jmajews@entergy.com with wire amount and reference number.

Should any payment not be delivered to Company as provided in this section, Company shall fax a notice of nonpayment to the facsimile number in this section. Should such payment not be delivered to Company within twenty-four (24) hours after notice of

nonpayment is faxed, Company is and shall be authorized to terminate service without further notice, anything to the contrary notwithstanding.

4. Except in the event of a material adverse change in Delphi's financial situation or a material increase in Company's monthly billings to Delphi, Company waives any further right to seek an increase in the Deposit or further payment term modifications under the Rules and Regulations and applicable laws.

5. Beginning ninety (90) days from the Effective Date and continuing quarterly thereafter, upon Delphi's written request Company will meet with Delphi to review Delphi's then current financial situation and the Company's then current billings and consider, in good faith, modifications to payment terms and the Deposit.

6. Both Delphi and Company will keep the terms of this Addendum together with all related discussions strictly confidential. Except to the extent required by applicable law, Delphi and Company will disclose the terms of this Addendum only to state utility regulators, to their respective management personnel who need to know such information to implement the terms of this Addendum, and to their respective legal counsel and other advisors with whom they have a recognized legal privilege; provided that all such persons shall be informed by Delphi or Company, as appropriate, of the confidentiality restrictions contained herein. Delphi and Company each further agrees that it will be responsible and liable for any breach of the confidentiality provisions set forth in this Addendum by its management personnel, legal counsel and other advisors. Delphi and Company each acknowledges that failure to honor the confidentiality provisions contained herein could cause economic harm to the other. Any discussions by Delphi or Company with the press or media regarding this Addendum and its terms are expressly prohibited.

7. The parties hereto acknowledge that they are executing this Addendum without duress or coercion and without reliance on any representations, warranties or commitments other than those representations, warranties and commitments expressly set forth in this Addendum.

8. This Addendum constitutes the entire understanding of the parties in connection with the subject matter hereof. This Addendum may not be modified, altered, or amended except by an agreement in writing signed by Delphi and Company. This Addendum shall be deemed to be incorporated by reference into, and shall be part of, all Supply Contracts without any specific reference to this Addendum in any Supply Contracts. The terms and conditions of the Supply Contracts are amended to include the terms of this Addendum. Should an inconsistency or conflict exist between the express terms of the Supply Contracts and this Addendum, the terms of this Addendum shall govern and control. This Addendum is being entered into among competent persons who are experienced in business and represented by counsel, and has been reviewed by Delphi and Company and their respective counsel. Therefore, any ambiguous language in this Addendum will not necessarily be construed against any particular party as the drafter of such language.

9. This Addendum shall be governed by, and construed and enforced in accordance with, the laws of the State of Mississippi, without regard to conflicts of law principles.

10. This agreement is subject to orders of regulatory authorities having jurisdiction, including the MPSC, and to the provisions of the Service Policy.

EXECUTED as of the Effective Date.

Delphi Corporation

By: Kevin Smith
Name: Kevin Smith
Title: Director of Machinery/Equipment
and Indirect Purchasing

Entergy Mississippi, Inc.

By: Harley R. Fisackerly
Name: Harley R. FISACKERLY
Title: Vice President, Customer Ops.

EXHIBIT B



Entergy

Entergy Mississippi, Inc.
www.entropy.com

Service Location (MRVW)
925 Industrial Pk Rd #23-Plant Acct
Cust Acc
Brookhaven, MS 39601

For Billing Inquiries and Customer Service, call
1-800-ENTERGY Mon-Fri, 7am-7pm

For Power Outages and Safety Concerns, call
1-800-9OUTAGE 24 hours a day, 7 days a week

Important Messages

Please continue to send payments as usual to the New Orleans address on the bill. The US postal service is working closely with Entergy to reroute payments to an alternate facility.

Entergy has established the Power of Hope Fund with a \$1,000,000 contribution to help Katrina and Rita victims restore their lives. To make your donation go to www.powerofhope.com.

Account Summary for Delphi Packard Electric Systems

Account # 17243528 Mail Date QPC 09000
Invoice # 2002974619 10/03/2005 Cycle 03

Date Due 10/24/2005	Amount Due \$196,555.17
------------------------	----------------------------

Account Detail

Previous Balance		155,352.73
Payment Received	(09/28/2005)	-155,352.73
Remaining Balance		\$0.00

Current Charges

Energy Charge	1574800 kWh @ \$0.043718	68,847.11
Energy Charge	714872 kWh @ \$0.033328	23,825.25
Demand Charge	200 kW @ \$6.25415	1,250.83
Demand Charge	3737 kW @ \$3.50	13,079.50
Primary Voltage Discount	3937 kW @ \$0.34	-1,338.58
Excess KVAR	228 KVAR @ \$0.34	77.52
Storm Damage Rider	2289672 kWh @ \$0.00049	1,121.94
MSE-RM Riders	\$106863.57 @ 0.1865112	19,931.25
PMR-1 Rider	\$106863.57 @ 0.00773	826.06
Fuel Adjustment	2289672 kWh @ \$0.030038	68,777.17
Tax Adjustment		157.12
Current Month Energy Charges		\$196,555.17

POSTMARK DATE

OCT 05 2005

Page 1 of 2

KEEP

SEND



Entergy

www.entropy.com

Account 17243528

QPC 09000

Invoice 2002974619

For Customer Service, call
1-800-ENTERGY
(1-800-368-3749)

Amount Due by
10/24/2005

\$196,555.17

Make check payable to Entergy. Thank You.

0.055 ***** 3-DIGIT 390



DELPHI PACKARD ELECTRIC SYSTEMS
GENERAL MOTORS
PO BOX 319022
CHICAGO, IL 60631-9022

ENTERGY
PO BOX 61825
NEW ORLEANS, LA 70161-1825

90000000172435280000000000000019655517100000000000029708

10/07/2005 CD020862


Entergy

 Entergy Mississippi, Inc.
 www.entergy.com

 Account # 17243528
 Invoice # 2002974819
 Mail Date 10/03/2005
 Page 2 of 2

 For Billing Inquiries and Customer Service, call
 1-800-ENTERGY Mon-Fri, 7am-7pm

 For Power Outages and Safety Concerns, call
 1-800-9OUTAGE 24 hours a day, 7 days a week

10/07/2005 CD020862

Meter Reading

Meter # 5086335	Rate : MS_HLF2	
Total Days (31)		
Current Meter Reading	(09/27/2005)	18723
Previous Meter Reading	(08/27/2005)	- 17897
Difference		826
Multiplier		x 2800
kWh Metered		2312800
Metered RDKW		3977.00
Multiplier		x 1
RDKW Metered		3977.0
Metered RNKW		3800.00
Multiplier		x 1
RNKW Metered		3800.0
Demand Metered kVAR		2616.00
Multiplier		x 1
kVAR Metered		2616.0

Meter Reading

Meter # A15192	Rate : MS_HLF2	
Metered RDKW		3977.00
Multiplier		x 1
RDKW Metered		3977.0
Metered RNKW		3800.00
Multiplier		x 1
RNKW Metered		3800.0
Net kW		3977.0

Usage Adjustments

kWh Metered	2312800
Less 1%	- 23128
kWh Billed	2289672
Net kW	3977.00
Less 1%	- 40.0
Billed kW	3937.0
KVAR	2616.00
Less 1%	- 26.0
Billed kVar	2590.0

EXHIBIT C

action

(MRW)

1001 Clinton Ind. Pk. - Plant #21/22

Cus Acc

Clinton, MS 39060

For Billing Inquiries
1-800-ENTERGY Mon-Fri, 7am-7pmFor Power Outages and Safety Concerns, call
1-800-9OUTAGE 24 hours a day, 7 days a week**Entergy**Entergy Mississippi, Inc.
www.entergy.com**Important Messages**

Please continue to send payments as usual to the New Orleans address on the bill. The US postal service is working closely with Entergy to reroute payments to an alternate facility.

Entergy has established the Power of Hope Fund with a \$1,000,000 contribution to help Katrina and Rita victims restore their lives. To make your donation go to www.powerofhope.com.

**Account Summary for
Delphi Packard Electric Systems Ubar-1**

Account # 16464919	Mail Date 10/06/2005	QPC 09000
Invoice # 2002991216		Cycle 02
Amount Due by 10/13/2005	\$1,011,901.86	
Amount Due after 10/13/2005	\$1,027,080.39	

Account Detail

Previous Balance (Due Now) 452,985.65

Current Charges

Energy Charge	6727644 kWh @ \$0.0345	232,103.72
Demand Charge	5000 kW @ \$5.8436	29,218.00
Demand Charge	6108 kW @ \$5.613	34,284.20
Excess KVAR	760 KVAR @ \$0.34	258.40
Storm Damage Rider	11108 kW @ \$0.23	2,554.84
MSE-RM Riders	\$298419.16 @ 0.1865112	55,658.52
PMR-1 Rider	\$298419.16 @ 0.00773	2,306.78
Fuel Adjustment	6727644 kWh @ \$0.030038	202,084.97
Tax Adjustment		446.78
Current Month Energy Charges		\$558,916.21
Total Amount Due		\$1,011,901.86

POSTMARK DATE**OCT 06 2005**

Page 1 of 2

KEEP**SEND****Entergy**

www.entergy.com

Account 16464919

QPC 09000

Invoice 2002991216

For Customer Service, call 1-800-ENTERGY (1-800-368-3749)	Amount Due by 10/13/2005	\$1,011,901.86
	Amount Due after 10/13/2005	\$1,027,080.39

Due date does not apply to any previous balances already past due.
Make check payable to Entergy. Thank You.



DELPHI PACKARD ELECTRIC SYSTEMS UBAR-1 %
PO BOX 319022
CHICAGO, IL 60631-9022

ENTERGY
PO BOX 61825
NEW ORLEANS, LA 70161-1825

9000000016464919000000000000101190186300102708039728604

10/11/2005 CD020884

**Entergy**Entergy Mississippi, Inc.
www.entergy.comInvoice # 2002991216
Mail Date 10/06/2005
Page 2 of 2

For Bill

1-800-ENTERGY Mon-Fri, 7am-7pm

For Power Outages and Safety Concerns, call
1-800-9OUTAGE 24 hours a day, 7 days a week

10/11/2005 CD020884

Meter Reading

Meter # 5087661	Rate : MS_ALGS	
Rider : GSH		
Total Days (30)		
Current Meter Reading	(10/01/2005)	10868
Previous Meter Reading	(09/01/2005)	10713
Difference		155
Multiplier		x 2800
kWh Metered		434000
Metered RDKW		822.00
Multiplier		x 1
RDKW Metered		822.0
Metered RNKW		756.00
Multiplier		x 1
RNKW Metered		756.0
Demand Metered kVAR		6391.00
Multiplier		x 1
kVAR Metered		6391.0

Meter Reading

Meter # J4750093	Rate : MS_ALGS	
Rider : GSH		
Total Days (30)		
Current Meter Reading	(10/01/2005)	1607
Previous Meter Reading	(09/01/2005)	1039
Difference		568
Multiplier		x 11200
kWh Metered		6361600
Metered RDKW		10423.00
Multiplier		x 1
RDKW Metered		10423.0
Metered RNKW		9858.00
Multiplier		x 1
RNKW Metered		9858.0
Net kW		11245.0
Demand Metered kVAR		6391.00
Multiplier		x 1
kVAR Metered		6391.0

Usage Adjustments

Total kWh	6795600.0
kWh Metered	6795600
Less 1%	- 67956
kWh Billed	6727644
Net kW	11245.00
Less 1%	- 112.0
Difference	11133.0
Less GSH Deduction	25.0
Billed kW	11108.0
KVAR	6391.00
Less 1%	- 64.0
Billed kVar	6327.0

EXHIBIT 2

FORM B10 (Official Form 10) (4/01)

UNITED STATES BANKRUPTCY COURT SOUTHERN DISTRICT OF NEW YORK		PROOF OF CLAIM
Name of Debtor DELPHI AUTOMOTIVE SYSTEMS LLC		Case Number 05-44640
<small>NOTE: This form should not be used to make a claim for an administrative expense arising after the commencement of the case. A "request" for payment of an administrative expense may be filed pursuant to 11 U.S.C. § 503.</small>		
Name of Creditor (The person or other entity to whom the debtor owes money or property): ENTERGY MISSISSIPPI INC		<div style="border: 2px solid black; padding: 10px; transform: rotate(-2deg);"> RECEIVED NOV 23 2005 KURTZMAN CARSON </div>
Name and address where notices should be sent: ENTERGY MISSISSIPPI INC MAIL UNIT L JEF 359 P O BOX 6008 NEW ORLEANS LA 70174 6008		
Telephone number: (504) 840-2585		
Account or other number by which creditor identifies debtor: 16464919 & 17243528		Check box if you are aware that anyone else has filed a proof of claim relating to your claim. Attach copy of statement giving particulars. <input type="checkbox"/> Check box if you have never received any notices from the bankruptcy court in this case. <input type="checkbox"/> Check box if the address differs from the address on the envelope sent to you by the court. <input type="checkbox"/>
1. Basis for Claim <input type="checkbox"/> Goods sold <input type="checkbox"/> Services performed <input type="checkbox"/> Money loaned <input type="checkbox"/> Personal injury/wrongful death <input type="checkbox"/> Taxes <input checked="" type="checkbox"/> Other <u>ELECTRIC SERVICE</u> <div style="display: flex; justify-content: space-between; margin-top: 10px;"> Retiree benefits as defined in 11 U.S.C. § 1114(a) Wages, salaries, and compensation (fill out below) </div> <div style="display: flex; justify-content: space-between; margin-top: 10px;"> Your SS #: _____ Unpaid compensation for services performed from _____ to _____ </div>		
2. Date debt was incurred: <u>10/01/05</u>		3. If court judgment, date obtained:
4. Total Amount of Claim at Time Case Filed: \$ <u>963,099.68</u> If all or part of your claim is secured or entitled to priority, also complete Item 5 or 6 below. <input type="checkbox"/> Check this box if claim includes interest or other charges in addition to the principal amount of the claim. Attach itemized statement of all interest or additional charges.		
5. Secured Claim. <input checked="" type="checkbox"/> Check this box if your claim is secured by collateral (including a right of setoff). Brief Description of Collateral: <input type="checkbox"/> Real Estate <input type="checkbox"/> Motor Vehicle <input checked="" type="checkbox"/> Other _____ Value of Collateral: \$ <u>600,000.00</u> Amount of arrearage and other charges at time case filed included in secured claim, if any: \$ <u>0.00</u>		6. Unsecured Priority Claim. <input type="checkbox"/> Check this box if you have an unsecured priority claim Amount entitled to priority \$ _____ Specify the priority of the claim: <input type="checkbox"/> Wages, salaries, or commissions (up to \$4,650)* earned within 90 days before filing of the bankruptcy petition or cessation of the debtor's business, whichever is earlier - 11 U.S.C. § 507(a)(3). <input type="checkbox"/> Contributions to an employee benefit plan - 11 U.S.C. § 507(a)(4). <input type="checkbox"/> Up to \$2,100* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use - 11 U.S.C. § 507(a)(6). <input type="checkbox"/> Alimony, maintenance, or support owed to a spouse, former spouse, or child - 11 U.S.C. § 507(a)(7). <input type="checkbox"/> Taxes or penalties owed to governmental units - 11 U.S.C. § 507(a)(8). <input type="checkbox"/> Other - Specify applicable paragraph of 11 U.S.C. § 507(a)() _____ <small>*Amounts are subject to adjustment on 4/1/04 and every 5 years thereafter with respect to cases commenced on or after the date of adjustment.</small>
7. Credits: The amount of all payments on this claim has been credited and deducted for the purpose of making this proof of claim. 8. Supporting Documents: Attach copies of supporting documents, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, court judgments, mortgages, security agreements, and evidence of perfection of lien. DO NOT SEND ORIGINAL DOCUMENTS. If the documents are not available, explain. If the documents are voluminous, attach a summary. 9. Date-Stamped Copy: To receive an acknowledgment of the filing of your claim, enclose a stamped, self-addressed envelope and copy of this proof of claim.		THIS SPACE IS FOR COURT USE ONLY <div style="border: 1px solid black; padding: 5px; transform: rotate(-2deg);"> CLAIMS FILING CENTER USBC, SDNY </div>
Date 11/08/05	Sign and print the name and title, if any, of the creditor or other person authorized to file this claim (attach copy of power of attorney, if any): <u>/S/BY: JON A MAJEWSKI COLLECTION DEPARTMENT</u>	

Penalty for presenting fraudulent claim: Fine of up to \$500,000 or imprisonment for up to 5 years, or both.





05-44481-rdd
Entergy
 Entergy Mississippi, Inc.
 www.entropy.com

Doc 1696 Filed 01/03/06 Entered 01/03/06 14:01:48
 1001 Clinton Ind. Pkwy
 Cus Acc
 Clinton, MS 39060

For Customer Service, call
 1-800-ENTERGY Mon-Fri, 7am-7pm

For Power Outages and Safety Concerns, call
 1-800-9OUTAGE 24 hours a day, 7 days a week

Important Messages

Please continue to send payments as usual to the New Orleans address on the bill. The US postal service is working closely with Entergy to reroute payments to an alternate facility.

Entergy has established the Power of Hope Fund with a \$1,000,000 contribution to help Katrina and Rita victims restore their lives. To make your donation go to www.powerofhope.com.

Your bill is prorated.

This is your final bill.

Account Summary for Delphi Packard Electric Systems Ubar-1

Account # 16464919	Mail Date 11/01/2005	QPC 09000
Invoice # 2003190254		Cycle 02

Date Due 11/22/2005	Amount Due \$243,318.51
------------------------	----------------------------

Account Detail

Previous Balance		1,011,901.86
Payment Received	(10/06/2005)	-452,985.65
Deposit Applied		-450,000.00
Remaining Balance (Due Now)		\$108,916.21

Current Charges

Energy Charge	1607760 kWh x 4.2857142	
(proration adjustment)	@ \$0.0345 x 0.2333333	55,467.72
Demand Charge	5000 kW x 4.2857142	
(proration adjustment)	@ \$5.8436 x 0.2333333	6,817.53
Demand Charge	5522 kW x 4.2857142	
(proration adjustment)	@ \$5.613 x 0.2333333	7,232.16
Excess kVAR	953 kVAR x 4.2857142	
(proration adjustment)	@ \$0.34 x 0.2333333	75.60
Storm Damage Rider	10522 kW @ \$0.23	2,420.06
MSE-RM Riders	\$72013.07 @ 0.1865112	13,431.24
PMR-1 Rider	\$72013.07 @ 0.00773	556.66
Fuel Adjustment	1607760 kWh @ \$0.030038	48,293.89
Tax Adjustment		107.44
Current Month Energy Charges		\$134,402.30
Total Amount Due		\$243,318.51

Page 1 of 2

**KEEP
 SEND**



Entergy
 www.entropy.com

Account 16464919 QPC 09000 Invoice 2003190254

For Customer Service, call 1-800-ENTERGY (1-800-368-3749)	Amount Due by 11/22/2005	\$243,318.51
---	-----------------------------	--------------

Due date does not apply to any previous balances already past due.
 Make check payable to **Entergy**. Thank You.

0.055 ***** 3-DIGIT 392



DELPHI PACKARD
 1001 INDUSTRIAL PARK DR
 CLINTON, MS 39056-3211

ENTERGY
 PO BOX 61825
 NEW ORLEANS, LA 70161-1825

900000001646491900000000000002433185160000000000032602

**Entergy**Entergy Mississippi, Inc.
www.entergy.com

05-44481-rdd

Doc 1696

Account # 1103496

Invoice # 2003190254 of 76

Mail Date 11/01/2005

Page 2 of 2

Entered 01/03/06

For Billing Inquiries and Customer Service, call

1-800-ENTERGY Mon-Fri, 7am-7pm

**For Power Outages and Safety Concerns, call
1-800-9OUTAGE 24 hours a day, 7 days a week****Meter Reading**

Meter # 5087661	Rate : MS_ALGS	
Rider : GSH		
Total Days (7)		
Current Meter Reading	(10/08/2005)	10876
Previous Meter Reading	(10/01/2005)	- 10868
Difference		8
Multiplier		x 2800
kWh Metered		22400
Metered RDKW		151.00
Multiplier		x 1
RDKW Metered		151.0
Metered RNKW		116.00
Multiplier		x 1
RNKW Metered		116.0
Demand Metered kVAR		6290.00
Multiplier		x 1
kVAR Metered		6290.0

Meter Reading

Meter # J4750093	Rate : MS_ALGS	
Rider : GSH		
Total Days (7)		
Current Meter Reading	(10/08/2005)	1750
Previous Meter Reading	(10/01/2005)	- 1607
Difference		143
Multiplier		x 11200
kWh Metered		1601600
Metered RDKW		10503.00
Multiplier		x 1
RDKW Metered		10503.0
Metered RNKW		9838.00
Multiplier		x 1
RNKW Metered		9838.0
Net kW		10654.0
Demand Metered kVAR		6290.00
Multiplier		x 1
kVAR Metered		6290.0

Usage Adjustments

Total kWh	1624000.0
kWh Metered	1624000
Less 1%	- 16240
kWh Billed	1607760
Net kW	10654.00
Less 1%	- 107.0
Difference	10547.0
Less GSH Deduction	25.0
Billed kW	4975.0
KVAR	6290.00
Less 1%	- 63.0
Billed kVar	6227.0
Billed on Minimum kW	10522.0



Entergy

Entergy Mississippi, Inc.
www.entropy.com

05-44481-rdd Doc 1696 Filed 01/03/06 Entered 01/03/06 11:48:01 For Billing Inquiries and Customer Service, call 1-800-ENTERGY Mon-Fri, 7am-7pm

Service Location
925 Industrial Pk Rd
Cust Acc
Brookhaven, MS 39601

For Power Outages and Safety Concerns, call
1-800-9OUTAGE 24 hours a day, 7 days a week

Important Messages

Please continue to send payments as usual to the New Orleans address on the bill. The US postal service is working closely with Entergy to reroute payments to an alternate facility.

Entergy has established the Power of Hope Fund with a \$1,000,000 contribution to help Katrina and Rita victims restore their lives. To make your donation go to www.powerofhope.com.

Your bill is prorated.

This is your final bill.

Corrected Bill.

Account Summary for Delphi Packard Electric Systems

Account # 17243528 Mail Date QPC 09000
Invoice # 2003190365 11/01/2005 Cycle 03

Date Due 11/22/2005	Amount Due \$119,781.17
------------------------	----------------------------

Account Detail

Previous Balance	196,555.17
Deposit Applied	-150,000.00
Remaining Balance	\$46,555.17

Current Charges

Energy Charge	584760 kWh x 2.7272727	
(proration adjustment)	@ \$0.043718 x 0.3666666	25,564.54
Energy Charge	269016 kWh x 2.7272727	
(proration adjustment)	@ \$0.033328 x 0.3666666	8,965.77
Demand Charge	200 kW x 2.7272727	
(proration adjustment)	@ \$6.25415 x 0.3666666	458.64
Demand Charge	3787 kW x 2.7272727	
(proration adjustment)	@ \$3.50 x 0.3666666	4,859.98
Primary Voltage Discount	3987 kW @ \$0.34	-497.05
Excess kVAR	178 kVAR x 2.7272727	
(proration adjustment)	@ \$0.34 x 0.3666666	22.19
Storm Damage Rider	853776 kWh @ \$0.00049	418.35
MSE-RM Riders	\$39792.42 @ 0.1865112	7,421.73
PMR-1 Rider	\$39792.42 @ 0.00773	307.60
Fuel Adjustment	853776 kWh @ \$0.030038	25,645.72
Tax Adjustment		58.53
Current Month Energy Charges		\$73,226.00
Total Amount Due		\$119,781.17

Page 1 of 2

KEEP

SEND



Entergy

www.entropy.com

Account 17243528

QPC 09000

Invoice 2003190365

For Customer Service, call
1-800-ENTERGY
(1-800-368-3749)

Amount Due by
11/22/2005

\$119,781.17

Make check payable to Entergy. Thank You.

0.055 ***** 3-DIGIT 392



DELPHI PACKARD ELECTRIC SYSTEMS
GENERAL MOTORS
JON MAJEWSKI
PO BOX 6008
NEW ORLEANS, LA 70174-6008

ENTERGY
PO BOX 61825
NEW ORLEANS, LA 70161-1825

90000000172435280000000000000011978117700000000000032608



05-44481-rdd
Entergy
 Entergy Mississippi, Inc.
 www.entropy.com

Doc 1696 Account # 01024088 Entered 01/03/06 11:48:01 For Billing Inquiries and Customer Service, call
 Invoice # 2003180365 of 76 1-800-ENTERGY Mon-Fri, 7am-7pm
 Mail Date 11/01/2005
 Page 2 of 2

**For Power Outages and Safety Concerns, call
 1-800-9OUTAGE 24 hours a day, 7 days a week**

Meter Reading

Meter # 5086335	Rate : MS_HLF2	
Total Days (11)		
Current Meter Reading	(10/08/2005)	19031
Previous Meter Reading	(09/27/2005)	- 18723
Difference		308
Multiplier		x 2800
kWh Metered		862400
Metered RDKW		4027.00
Multiplier		x 1
RDKW Metered		4027.0
Metered RNKW		3609.00
Multiplier		x 1
RNKW Metered		3609.0
Demand Metered kVAR		2596.00
Multiplier		x 1
kVAR Metered		2596.0

Meter Reading

Meter # A15192	Rate : MS_HLF2	
Metered RDKW		4027.00
Multiplier		x 1
RDKW Metered		4027.0
Metered RNKW		3609.00
Multiplier		x 1
RNKW Metered		3609.0
Net kW		4027.0

Usage Adjustments

kWh Metered	862400
Less 1%	- 8624
kWh Billed	853776
Net kW	4027.00
Less 1%	- 40.0
Billed kW	3987.0
KVAR	2596.00
Less 1%	- 26.0
Billed kVar	2570.0



Entergy

November 10, 2005

Clerk, United States Bankruptcy Court
Southern District of New York
Old Custom House
1 Bowling Green, 6th Floor
New York, NY 10004-1408

Clerk of Court:

SUBJECT: Delphi Automotive Systems, LLC
Entergy Mississippi, Inc. Pre Account #16464919, #17243528
Case #05-44640 Chapter 11

On behalf of Entergy Mississippi, Inc., enclosed is a proof of claim to be filed in the referenced bankruptcy.

Please acknowledge receipt of the claim on the attached copy of this letter and return for our files. We have provided a stamped business reply envelope for your convenience.

You may send all further notices and correspondence to my attention at the following address:

Jon Majewski
Entergy Services, Inc.
P. O. Box 6008
Mail Unit L-JEF-359
New Orleans, LA 70174

Should you require any additional information, please contact me at (504) 840-2585.

Jon Majewski
Credit & Collection HQ

JAM:rab

Enclosure

Attachment

EXHIBIT E

TOGUT, SEGAL & SEGAL LLP
Co-Counsel for Delphi Corporation, *et al.*,
Debtors and Debtors in Possession
One Penn Plaza, Suite 3335
New York, New York 10119
(212) 594-5000
Albert Togut (AT-9759)
Neil Berger (NB-3599)

Delphi Legal Information Hotline:
Toll Free: (800) 718-5305
International: (248) 813-2698

Delphi Legal Information Website:
<http://www.delphidocket.com>

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

HEARING DATE: 1/5/06
AT: 10:00 a.m.

-----X	:	
In re:	:	
	:	Chapter 11
DELPHI CORPORATION, <i>et al.</i> ,	:	Case No. 05-44481 [RDD]
	:	
Debtors.	:	Jointly Administered
	:	
-----X		

**DEBTORS' OBJECTION TO MOTION BY PEPKO ENERGY
SERVICES, INC. FOR RELIEF FROM AUTOMATIC STAY TO PROVIDE
NOTICE OF DEFAULT AND TERMINATE SALES AGREEMENT WITH THE
DEBTORS, OR IN THE ALTERNATIVE, FOR AN ORDER COMPELLING
THE DEBTORS TO ASSUME OR REJECT SALES AGREEMENT**

**TO THE HONORABLE ROBERT D. DRAIN,
UNITED STATES BANKRUPTCY JUDGE:**

Delphi Corporation ("Delphi") and certain of its subsidiaries and affiliates, debtors and debtors in possession in the above-captioned cases (collectively, the "Debtors"), by their undersigned counsel, as and for their objection to the motion dated November 21, 2005 (the "Motion") of Pepco Energy Services, Inc. ("Pepco") for an Order for relief from the automatic stay to provide notice of default and terminate the

sales agreement between Pepco and the Debtors, or in the alternative, to compel the Debtors' assumption or rejection of the sales agreement, respectfully state:

PRELIMINARY STATEMENT

1. Pepco filed this Motion on November 21, 2005, a mere six days after it failed to receive Delphi's *prepayment* for electricity for the December 1-December 31, 2005 period. That prepayment was made to Pepco the day after the Motion was filed.¹

2. Indeed, the Debtors are current on all of their post-petition obligations to Pepco.

3. Pepco nonetheless seeks entry of "an Order whereby if a future payment under the Sales Agreement [as defined below] is untimely pursuant to the terms of the Sales Agreement, the stay shall be automatically lifted without further Order of this Court to allow [Pepco] to send a notice of non-payment and to terminate the Sales Agreement per its terms." (Motion, at 4-5.) In the alternative, Pepco seeks to compel the Debtors to assume or reject their agreement with Pepco.

4. Pepco premises its extraordinary requests for relief upon its purported concern over the risk that the Debtors will fail to timely pay Pepco in the future and that Pepco will, as a result, become liable to the local utility through which it supplies electricity to the Debtors.

5. This risk has not materialized to date and is contrary to the Court's finding in the Utilities Order² that "[t]he Debtors' record of timely payment of

¹ The brief delay in payment was caused by a change of account number that occurred after the Debtors' bankruptcy filings.

²Final Order Under 11 U.S.C. §§ 105, 366, 503, and 507 (I) Prohibiting Utilities From Altering, Refusing, or Discontinuing Services on Account of Prepetition Invoices and (II) Establishing Procedures for Determining Requests for Additional Assurance, dated October 28, 2005 (Docket No. 760).

prepetition utility bills [and] demonstrated ability to pay future utility bills . . . constitute adequate assurance of future payment for utility services pursuant to 11 U.S.C. § 366(b).” (Utilities Order ¶ 4.)

6. Moreover, the extraordinary relief sought by Pepco is contrary to the spirit of the Utilities Order, which enjoins utility companies, including Pepco, from “altering, refusing, or discontinuing service to, or discriminating against, the Debtors solely on the basis of the commencement of these chapter 11 cases. . . .” Utilities Order ¶ 3. The relief sought by Pepco is contrary to the Utilities Order in that Pepco seeks to interrupt or discontinue service to the Debtors if the Debtors make a *single* future payment on an untimely basis.

7. Pepco also improperly seeks to compel the Debtors to assume the Sales Agreement so soon after their bankruptcy filings rather than allowing the Debtors to (a) evaluate numerous factors that affect their business opportunities and responsibilities including, without limitation, the New Brunswick, New Jersey manufacturing facility that utilizes the electricity that is the subject of the Sales Agreement and (b) continue performance under the terms of the pre-petition Sales Agreement while they do so.

8. For these reasons and for the reasons discussed below, the Motion should be denied in its entirety.

STATEMENT OF FACTS

The Chapter 11 Cases

9. On October 8, 2005 (the "Filing Date"), Delphi and certain of its affiliates each filed voluntary petitions in this Court for reorganization relief under Chapter 11 of title 11 of the United States Code, 11 U.S.C. §§ 101-1330, as amended (the "Bankruptcy Code").

10. The Debtors continue to operate their businesses and manage their properties as debtors-in-possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. This Court entered Orders directing the joint administration of the Debtors' chapter 11 cases (Docket Nos. 28 and 404).

11. On October 17, 2005, the United States Trustee for the Southern District of New York appointed an official committee of unsecured creditors in these cases, which is represented by Latham & Watkins. No trustee or examiner has been appointed.

12. The Debtors have only recently commenced a restructuring effort that they anticipate will take approximately 18 months to complete. They are parties to tens of thousands of executory contracts and unexpired leases, which collectively involve billions of dollars of liabilities and which will take many months to examine. The Debtors are currently reviewing 11,000 contracts that are expiring in the near term, many of which are necessary to the supply of product to the Debtors' customers. In furtherance of their efforts to stabilize their businesses, the Debtors are negotiating with these suppliers and analyzing the propriety of assuming such contracts.

13. The Court has recently denied motions brought by several creditors for orders fixing deadlines for the Debtors to assume or reject executory contracts. *See,*

e.g., Order under 11 U.S.C. § 365(d)(2) Denying Motion of Sensus Precision Die Casting, Inc. for Order Directing Debtors to Determine Within 30 Days Whether to Assume or Reject Executory Contract, dated December 1, 2005 (Docket No. 1378); Order Under 11 U.S.C. § 365(d)(2) Denying Motion of Russell Reynolds Associates, Inc. for Order Fixing Deadline for Debtors to Assume or Reject Executory Contract, dated December 1, 2005 (Docket No. 1379); Order Under 11 U.S.C. § 365(d)(2) Denying Motion of Solectron Manufactura De Mexico, S.A. for Order Fixing Deadline for Debtors to Assume or Reject Executory Contract, dated December 1, 2005 (Docket No. 1380).

14. In denying Solectron's motion just one month ago, the Court observed: "It's very early in the case. The debtor has stated since the start of the case that one of the reasons it is in Chapter 11 is to further rationalize manufacturing facilities and the like and those decisions clearly have not been made yet on how to do that and will take some time to work through and it seems to me that this agreement is bound up in that decision." Transcript of Hearing Held in *In re Delphi*, Adv. Pro. 05-44481, on November 29, 2005, at 66.

The Debtors' Agreement with Pepco

15. Pepco is the supplier of electricity to the Debtors' New Brunswick, New Jersey facility (the "Facility"), which employs approximately 425 people and manufactures batteries under a contract manufacturing agreement with automotive supplier Johnson Controls. *See* Affirmation of Donald S. Poole, dated December 29, 2005, annexed hereto as Exhibit A ("Poole Affirmation") ¶ 4, 6.

16. Pepco provides electricity for the Facility pursuant to a Master Electric Sales Agreement, dated July 8, 2003 (including all amendments, the “Sales Agreement”).³ See Poole Affirmation ¶ 6.

17. If the Debtors do not have access to energy to run the Facility, either because Pepco is allowed to terminate the Sales Agreement or because they are compelled to prematurely reject the Sales Agreement, they will be unable to manufacture product, which would result in the Debtors not meeting their manufacturing commitments to customers. Under the terms of the Debtors’ contracts with their customers, the Debtors are responsible for damages if, by missing a production commitment, they affect a customer’s production schedule. The Debtors’ customers have informed the Debtors that damages can be as much as \$10 million per facility per day. See Poole Affirmation ¶ 5.

18. Review of the Debtors’ recent bill payment history to Pepco, included as Exhibit 1 to the Poole Affirmation, indicates that all post-petition invoices have been paid and were paid on a prepayment basis so that, by way of example, Pepco’s invoice for December 2005 service was prepaid during November 2005. See Poole Affirmation ¶ 8.

Relief Sought By Pepco

19. In its Motion, Pepco requests that: (a) the automatic stay be modified so that Pepco may terminate the Sales Agreement based upon a failure of the Debtors to make a post-petition payment that was outstanding as of the filing of the

³ As Pepco indicates in the Motion, the terms of the applicable Addendum to Master Electric Sales Agreement, entered into as of August 26, 2005, are “strictly confidential.” See Poole Affirmation ¶ 6. To the extent that the Court requires submission of the Sales Agreement, the parties will file the Sales Agreement under seal or provide it to the Court for *in camera* review.

Motion (that payment was made the day after the Motion was filed); (b) in the event that the Debtors pay the sums owed to Pepco for the post-petition period later than the exact date such payments are due, the automatic stay be modified without further Order of this Court to permit the termination of the Sales Agreement, and (c) that the Debtors be compelled to assume or reject the Sales Agreement.

20. Pepco cannot assert or provide any basis to conclude that cause exists for the modification of the automatic stay because the Debtors are current on all of their post-petition obligations to Pepco. Moreover, Pepco has not asserted or provided any basis to conclude that it is entitled to the extraordinary relief of having the automatic stay modified without further Order of this Court in the event of a single future untimely payment. Finally, Pepco has not asserted or provided any basis to conclude that the Debtors ought to be compelled to assume or reject the Sales Agreement at this very early stage in their bankruptcy proceedings.

ARGUMENT

A. Pepco Has Failed to Show Cause to Lift the Automatic Stay Pursuant to Section 362(d)(1)

21. Pursuant to Bankruptcy Code section 362(d)(1), the Court may grant relief from the automatic stay “for cause.” 11 U.S.C. § 362(d)(1). The Bankruptcy Code does not define the term “cause” and the determination of whether sufficient cause exists to modify the stay is determined on a case by case analysis. *See In re Balco Equities Ltd., Inc.*, 312 B.R. 734, 748-49 (Bankr. S.D.N.Y. 2004).

22. The Second Circuit has described the automatic stay as a “crucial provision of bankruptcy law” intended to “prevent[] disparate actions against debtors

. . . [and] ensur[e] that no creditor receives more than an equitable share of the bankrupt's estate." *Lincoln Savings Bank, FSB v. Suffolk County Treasurer (In re Parr Meadows Racing Assoc., Inc.*, 880 F.2d 1540, 1545 (2d Cir. 1989) (internal citations omitted).

23. Pepco incorrectly asserts that there is cause to modify the automatic stay because the Debtors have violated this Court's Utilities Order. Specifically, Pepco asserts that the Debtors have run afoul of the provision of the Utilities Order, which requires them to "pay on a timely basis in accordance with their prepetition practices all undisputed invoices for postpetition utility services provided by the Utility Companies to the Debtors." Utilities Order ¶ 2.

24. The Debtors have, in fact, complied with the Utilities Order by paying Pepco's post-petition invoices in accordance with their pre-petition practices. The brief delay in payment to Pepco, which led to the filing of the instant Motion, was caused by a change of account number that occurred after the Debtors' bankruptcy filings.

25. Next, Pepco asserts that cause for lifting the automatic stay exists because the risk of the Debtors' future nonpayment exposes Pepco to liability to the local public utility that ultimately delivers power to the Debtors. *See* Motion, at 3-4.

26. This assertion is negated by the Debtors having made all post-petition payments to Pepco and the Court's finding that the "[t]he Debtors' record of timely payment of prepetition utility bills [and] demonstrated ability to pay future utility bills . . . constitute adequate assurance of future payment for utility services pursuant to 11 U.S.C. § 366(b)." Utilities Order ¶ 4.

27. Pepco faces no greater risk today to exercise its contractual remedies than it did prior to the Filing Date. The only difference is the effect of the automatic stay, which in this instance, is functioning precisely as the Bankruptcy Code intends. *See Parr Meadows*, 880 F.2d at 1545.

B. The Debtors Should Not Be Compelled to Assume or Reject the Sales Agreement at this Early Stage of Their Bankruptcy Proceedings

28. The Bankruptcy Code does not require a debtor to decide whether to assume or reject an executory contract until the time of plan confirmation. *See* 11 U.S.C. § 365(d)(2). A non-debtor party to an executory contract may attempt to compel the debtor into assuming or rejecting before plan confirmation upon motion to the Court. *See id.* In considering such a motion, however, Courts must balance the interests of the debtor against those of the non-debtor party. *See, e.g., Matter of Midtown Skating Corp.*, 3 B.R. 194, 198 (Bankr. S.D.N.Y. 1980); *In re Resource Tech. Corp.*, 254 B.R. 215, 227 (Bankr. N.D. Ill. 2000); *In re Dunes Casino Hotel*, 63 B.R. 939, 949 (D.N.J. 1986); *In re GHR Energy Corp.*, 41 B.R. 668, 676 (Bankr. D. Mass 1984).

29. Courts considering such demands by non-debtor parties rarely force a debtor into prematurely assuming or rejecting a contract. The reason for Courts' reluctance to force early assumption or rejection is that the "interests of the creditors collectively and the bankrupt estate as a whole will not yield easily to the convenience or advantage of one creditor out of many." *Public Serv. Co. of New Hampshire v. New Hampshire Elec. Coop, Inc. (In re Public Serv. Co. of New Hampshire)*, 884 F.2d 11, 15 (1st Cir. 1989). Under most circumstances, it is the clear policy of the Bankruptcy Code to provide a debtor with breathing space following the filing of a bankruptcy petition, and continuing until the confirmation of a plan, in which to decide whether to assume

or reject an executory contract. *See In re Enron Corp.*, 279 B.R. 695, 702 (Bankr. S.D.N.Y. 2002) (citation omitted).

30. Although the breathing space afforded a debtor is not without limits, *Enron*, 279 B.R. at 702, the law requires, in all circumstances, that a debtor be given a “reasonable time” to decide whether to assume or reject. *Philadelphia Co. v. Dipple*, 312 U.S. 168, 174 (1941); *Enron*, 279 B.R. at 702. The determination of what is reasonable is within the Bankruptcy Court’s discretion in light of the circumstances of each case. In determining what constitutes a reasonable time, Courts in this Circuit have considered several factors, including: (1) the nature of the interests at stake; (2) the balance of hurt to the litigants; (3) the good to be achieved; (4) the safeguards afforded to the litigants; (5) whether the debtor’s bankruptcy case is complex; (6) the debtor’s failure or ability to satisfy post-petition obligations; (7) the damage that the non-debtor will suffer beyond the compensation available under the Bankruptcy Code; (8) the importance of the contract to the debtor’s business and reorganization; (9) whether the debtor has sufficient time to appraise its financial situation and formulate a plan; (10) whether there is a need for judicial determination as to whether an executory contract exists; (11) whether the period in which the debtor has the exclusive right to file a plan of reorganization has expired; and (12) whether the time afforded is consistent with the rehabilitative purposes of chapter 11. *See, e.g., In re Burger Boys, Inc.*, 94 F.3d 755, 761 (2d Cir. 1996); *Theatre Holding Corp. v. Mauro*, 681 F.2d 102, 106 (2d Cir. 1982); *In re Adelphia Communications Corp.*, 291 B.R. 283, 293 (Bankr. S.D.N.Y. 2003); *In re Enron Corp.*, 279 B.R. at 702-03; *In re Teligent, Inc.*, 268 B.R. 723, 738-39 (Bankr. S.D.N.Y. 2001); *In re Beker Indus. Corp.*, 64 B.R. 890, 896 (Bankr. S.D.N.Y. 1986).

31. All of the factors enumerated above compel denial of Pepco's request to compel assumption or rejection of the Sales Agreement at this early stage of the Debtors' cases.

C. The Purpose Of Chapter 11 Warrants Denial Of The Motion

32. Courts have held that a determination of what is a reasonable time within which a debtor should assume or reject an executory contract should be interpreted "with the broad purpose of chapter 11, which is 'to permit successful rehabilitation of debtors.'" *Teligent*, 268 B.R. at 738-39 (quoting *NLRB v. Bildisco & Bildisco*, 465 U.S. 513, 527 (1984)); see also *Matter of Midtown Skating Corp.*, 3 B.R. at 198. In the analogous context of leases, the Court of Appeals for the Second Circuit has recognized that a Court may delay the decision on whether to assume or reject a lease until confirmation as a matter of course because the debtor's rehabilitation efforts will be clear at confirmation. See *Nostas Assocs. v. Costich (In re Klein Sleep Products, Inc.)*, 78 F.3d 18, 29 (2d Cir. 1996); see also *In re Crystal Apparel, Inc.*, 220 B.R. 816, 834 (Bankr. S.D.N.Y. 1998) ("[t]he assumption of an executory contract early in a Chapter 11 case is particularly disfavored as it is difficult to predict the course the reorganization will take." (citing *Klein Sleep*, 78 F.3d at 29)).

33. The decision whether to assume or reject executory contracts, such as Pepco's, is important to the Debtors' reorganization efforts. The Debtors intend to use the chapter 11 process to achieve competitiveness for Delphi's core U.S. operations by realigning Delphi's global product portfolio and manufacturing footprint to preserve the Debtors' core businesses. This process will have an impact on the executory contracts that the Debtors ultimately decide to assume or reject. Additionally, if the Motion is granted, the Debtors and their estates will be significantly and pointlessly

harmed because they will be forced to decide now whether to assume the Sales Agreement. Assumption not only means payment of pre-petition unsecured claims, it also means elevation to administrative expense priority status of all other obligations that may arise under the Sales Agreement. More importantly, an Order granting the Motion would force the Debtors into devoting resources to analyzing this non-expiring contract in a hurried fashion at a time when the Debtors' resources are already stretched as they examine numerous other aspects of their business while attempting to restructure their affairs. Requiring the Debtors to make determinations on assuming or rejecting non-expiring executory contracts at this time is not in keeping with the protections that chapter 11 affords.

D. Pepco Will Not Suffer Any Harm Beyond Compensation Available Under The Bankruptcy Code.

34. There is no harm that will befall Pepco if the Debtors are allowed to retain their statutory right to wait until plan confirmation to decide whether to assume or reject the Sales Agreement. As demonstrated by the Poole Affirmation, the Debtors are performing all of their post-petition obligations under the Sales Agreement. Moreover, the Debtors have significant resources, including access to a substantial DIP credit facility, which provide adequate assurance to all of their post-petition suppliers and vendors that such suppliers and vendors will be paid their post-petition bills in a timely fashion. *See, e.g.,* Transcript of Oct. 11, 2005 Hearing at p. 107 ("I am now convinced that the facility adequately satisfies the debtors' needs and provides them with sufficient and abundant availability to conduct their bankruptcy case; and, more importantly, to conduct their businesses in the ordinary course."). Granting the Motion will result in countless motions for the same relief by all similarly situated creditors,

which could cost the Debtors hundreds of millions of dollars in cure costs and jeopardize the Debtors' reorganization efforts.

E. The Debtors Have Not Had Sufficient Time To Appraise Their Financial Situation And Formulate A Plan.

35. Prior to making critical assumption or rejection decisions, a debtor must be permitted "the leeway needed to appraise its financial situation and the potential value of its assets in terms of the formulation of a plan. . . ." *Theatre Holding*, 681 F.2d at 104; *see also Teligent*, 268 B.R. at 739. As stated above, the Debtors are only three months into a restructuring effort that they anticipate will take approximately 18 months to complete. At this point, however, the Debtors' energies are focused on stabilizing their business and reviewing expiring executory contracts. The Debtors have not had time to make critical decisions regarding the assumption or rejection of their numerous executory contracts. The Debtors need to focus on developing a comprehensive restructuring plan for their business and the several hundred thousand creditors in these cases. They simply cannot and should not be forced into preemptory contract assumption and rejection decisions for non-expiring contracts.

F. The Complexity And Size Of The Debtors' Chapter 11 Filings Warrant A Considerable Period In Which To Evaluate The Consequences Associated With Assumption Or Rejection Of Executory Contracts

36. The complexity and size of these cases also warrants denial of the Motion at this early stage. The complexity of the issues that the Debtors face in stabilizing their businesses and attempting to restructure their affairs is magnified by the size of these cases, currently among the largest pending before any bankruptcy court in the United States. In summary:

- (a) Forty-two affiliated entities sought chapter 11 relief;

- (b) The Debtors employ approximately 50,600 people in the U.S. at approximately 44 manufacturing sites and 13 technical centers. Ninety-six percent of the company's 34,750 hourly employees are represented by approximately 49 different international and local unions under various CBAs. The company's foreign entities employ more than 134,000 people supporting 120 manufacturing sites and 20 technical centers across nearly 40 countries worldwide;
- (c) The Debtors' global 2004 revenues were approximately \$28.6 billion, and global assets as of August 31, 2005 were approximately \$17.1 billion; and
- (d) The Debtors supply products to nearly every major global automotive original equipment manufacturer, with 2004 sales to the Debtors' former parent, General Motors Corporation, equaling approximately \$15.4 billion and sales to each of Ford Motor Company, DaimlerChrysler Corporation, Renault/Nissan Motor Company, Ltd., and Volkswagen Group exceeding \$850 million.

37. Courts have recognized that complex cases require a more careful and extended consideration by the debtor of whether to assume or reject executory contracts. *See Dallas-Fort Worth Reg'l Airport Bd. v. Braniff Airways, Inc.*, 26 B.R. 628, 636 (N.D. Tex. 1982) ("[i]t would have been quite unreasonable, in this highly complex bankruptcy proceeding, to have required such a decision within two months of the date the petition in bankruptcy was filed.").

38. The Sales Agreement affects the Debtors' manufacturing facility in New Brunswick, New Jersey, which employs more than 425 people, and is an important part of the Debtors' manufacturing structure. Consequently, the decision to assume or reject the Sales Agreement is a significant decision that cannot yet be made by the Debtors.

CONCLUSION

39. Based on the foregoing, Pepco has failed to establish at this early stage of these cases any basis for relief from the automatic stay or for compelling the Debtors to assume or reject the Sales Agreement, and its Motion should be denied in its entirety.

Notice

40. Notice of this Objection has been provided in accordance with the Order under 11 U.S.C. §§ 102(1) and 105 and Fed. R. Bankr. P. 2002(m), 9006, 9007, and 9014 Establishing (i) Omnibus Hearing Dates, (ii) Certain Notice, Case Management, and Administrative Procedures, and (iii) Scheduling an Initial Case Conference in Accordance with Local Bankr. R. 1007-2(e), which was entered by this Court on October 14, 2005 (Docket No. 245). In light of the nature of the relief requested, the Debtors submit that no other or further notice is necessary.

Memorandum Of Law

41. Because the legal points and authorities upon which this Objection relies are incorporated herein, the Debtors respectfully request that the requirement of the service and filing of a separate memorandum of law under Local Rule 9013-1(b) be deemed satisfied.

WHEREFORE, the Debtors respectfully request that the Court enter an Order denying the Motion, together with such other and further relief as may be just and proper.

Dated: New York, New York
December 29, 2005

DELPHI CORPORATION, *et al.*
By their attorneys,
TOGUT, SEGAL & SEGAL LLP
By:

/s/ Neil Berger
ALBERT TOGUT (AT-9759)
NEIL BERGER (NB-3599)
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EXHIBIT A

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UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

HEARING DATE: 1/5/06
AT: 10:00 A.M.

-----X	:	
In re:	:	
	:	
DELPHI CORPORATION, <i>et al.</i> ,	:	Chapter 11
	:	Case No. 05-44481 [RDD]
	:	
Debtors.	:	Jointly Administered
	:	
-----X	:	

**AFFIRMATION OF DONALD S. POOLE IN SUPPORT OF
DEBTORS' OBJECTION TO MOTION FOR ORDER OF RELIEF
FROM AUTOMATIC STAY TO PROVIDE NOTICE OF DEFAULT AND
TERMINATE SALES AGREEMENT BETWEEN PEPKO ENERGY SERVICES,
INC. AND DEBTORS, OR IN THE ALTERNATIVE, FOR ORDER
COMPELLING DEBTORS TO ASSUME OR REJECT SALES AGREEMENT**

STATE OF OHIO)
):
COUNTY OF MONTGOMERY)

DONALD S. POOLE, solemnly affirms under penalty of perjury as
follows:

1. I am the Manager of Utilities Supply of Delphi Corporation
("Delphi"), debtor and debtor-in-possession in the above-captioned chapter 11
cases. I am familiar with the Debtors' operations and their process of obtaining

electrical services. I have held this position in Delphi since 1999 and have worked with electrical utility companies on industrial power delivery for over 35 years. I have a B.A. degree in Electrical Engineering from the University of Akron and am a registered Professional Engineer in the States of Ohio. I have personal knowledge of the facts stated in this Affirmation and I can testify to those facts in court if necessary on behalf of the Debtors.

2. Delphi is one of the world's largest suppliers of automotive components and electronics. Across the globe, Delphi operates over 40 domestic and 160 foreign entities in approximately 40 countries, employing more than 185,000 employees worldwide.

3. In my present position, I have responsibility for procuring electricity for the Debtors' New Brunswick, New Jersey manufacturing facility (the "Facility").

4. The Facility manufactures batteries under a contract manufacturing agreement with automotive supplier Johnson Controls and employs approximately 425 people.

5. If Delphi does not have access to energy to run the Facility, Delphi will be unable to manufacture product, which would result in the Delphi not meeting its manufacturing commitments to customers. Under the terms of Delphi's various contracts with its customers, Delphi is responsible for damages if, by missing a production commitment, it affects a customer's production schedule. Delphi's customers have previously informed Delphi that damages can be as much as \$10 million per facility per day.

6. The Facility's supplier of electricity is Pepco Energy Services, Inc. ("Pepco"). Pepco supplies the Facility with electricity pursuant to a Master

Electric Sales Agreement, dated July 8, 2003 (including all amendments, the "Sales Agreement"). The terms of the applicable Addendum to Master Electric Sales Agreement, entered into as of August 26, 2005, which I executed on behalf of Delphi, are "strictly confidential."

7. I am one of the people who has custody of Delphi's business records (including access to electronically stored data) concerning Delphi's Sales Agreement with Pepco. These records are kept in the ordinary course of Delphi's regularly conducted business activity, which is Delphi's customary practice. I have reviewed Delphi's files on the Sales Agreement, which leads me to the summary set forth below. All documents attached are true and correct copies of the business records described above. All facts set forth herein are either (a) facts of which I have personal knowledge; or (b) an accurate summary of Delphi's business records as described above.

8. As reflected in the attached bill payment history to Pepco, Delphi is current with respect to its post-petition obligations to Pepco under the Master Electric Sales Agreement. All post-petition bills received from Pepco have either been paid post-petition or were prepaid pre-petition.

9. I affirm under penalty of perjury according to the laws of the United States that the foregoing statements are true and correct.

Executed this 29th day of December, 2005 in Dayton, Ohio

/s/ Donald S. Poole

DONALD S. POOLE

EXHIBIT 1

Account number	Service from	Service to	Days	Batch No & sequence	Bill date Date	P = prepaid	Paid date	Check number	Amount paid
1034064	Tuesday, September 06, 2005	Wednesday, October 05, 2005	29	MA046714	10/1/05		Not paid--Received after bankruptcy	n/a	\$136,942.01
1034064	Wednesday, October 05, 2005	Friday, October 07, 2005	2	CD021375	11/11/05		Not paid--Received after bankruptcy	n/a	\$40,663.41
1034064	Friday, September 30, 2005	Monday, October 31, 2005	31	MA043131	9/13/05	P	15-Sep-05	002742677	\$295,000.00
1035497681	Saturday, October 08, 2005	Thursday, November 03, 2005	26	MA048433	11/11/05		29-Nov-05	000072397	\$112,792.55
1035497681	Monday, October 31, 2005	Wednesday, November 30, 2005	30	MA044315	11/30/05	P	26-Oct-05	002746071	\$295,000.00
1035497681	Thursday, November 03, 2005	Tuesday, December 06, 2005	33	MA050042	12/13/05		21-Dec-05	000073117	\$167,941.57
1035497681	Wednesday, November 30, 2005	Saturday, December 31, 2005	31	MA047920	11/1/05	P	22-Nov-05	000072228	\$460,000.00
1035497681	Saturday, December 31, 2005	Tuesday, January 31, 2006	31	MA049789	12/8/05	P	14-Dec-05	000072885	\$460,000.00